IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1165 of 2001

to

FIRST APPEAL No 1259 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPECIAL LAND ACQUISITION OFFICER

Versus

ABDULKARIM GULAM MAIYUDDIN

Appearance:

MR ARUN D OZA GOVERNMENT PLEADER with MR MUKESH PATEL AGP for Appellants

MR JM PATEL for MR AJ PATEL for Resp.-claimants

CORAM : MR.JUSTICE M.R.CALLA
and

MR.JUSTICE D.H.WAGHELA

Date of decision: 15/06/2001

C.A.V. JUDGEMENT

(Per : MR.JUSTICE D.H.WAGHELA)

1. This group of 95 First Appeals preferred by the acquiring bodies seeks to challenge the common judgment and order dated 16.11.1999 of the learned Assistant Judge, Bharuch, Court Camp at Rajpipla whereby the respondent-claimants are awarded compensation @ Rs.525/- per Are for the non-irrigated lands and @ Rs.550/-per Are for the irrigated lands which were acquired for the purpose of Karjan Jalashaya Project.

2. The lands under acquisition were those of Village Desad, Taluka Valia, District Bharuch, for which notifications under Section 4 of the Land Acquisition Act, 1894 (`the Act') were published on different dates from 26.1.1988 to 10.11.1989. The Land Acquisition Officer having awarded the compensation @ Rs.187/- per Are for the irrigated lands and @ Rs.150/- per Are for the non-irrigated lands, the claimants had sought references under Section 18 of the Act. All these references were consolidated with Land Acquisition Reference No.1109 of 1990 and decided and disposed by the common judgment which is under challenge in these appeals.

3. Oral evidence in the form of deposition of one of the claimants was at Exh.13 and an agreement to sell a piece of land of the nearby village Valia was at Exh.10. The evidence of one sale instance was produced at Exhs.8 and 9 and a judgment in LAR No.1456 of 1990 was also produced at Exh.12. The appellants herein did not lead any oral or documentary evidence.

4. The documentary evidence of sale instances at Exhs.8 and 9 evidenced execution on 30.9.1985 of an agreement to sell a small piece of land admeasuring 66

Are for Rs.39,999/- @ Rs.606/- per Are. That sale transaction was from a village of which the outskirts are adjacent to the outskirts of village Desad. Taking into consideration the proximity of the lands and passage of three years after which notifications under Section 4 of the Act in the instant cases were issued, the market value was fixed @ Rs.525/- and Rs.550/- per Are for non-irrigated and irrigated lands respectively in the impugned judgment.

5. Going through the impugned judgment and award, it was found that the total amount of additional compensation including the additional compensation @ 12% per annum and 30% solatium ranged from Rs.517.50 to Rs.23,715.80 in individual cases with an exception of total additional compensation of Rs.64,604.40 in only one case. However, in large majority of individual cases, the amount of total additional compensation was below or around Rs.5,000/-. In light of this Court having taken a consistent view in a number of judgments that appeals involving claim of petty amounts ought not to be entertained in view of the disproportionate costs and hardships involved for the parties, and in view of the fact that the amounts of compensation have already been withdrawn by the claimants, the learned Government Pleader, at one stage, took time for obtaining instructions to withdraw these appeals. However, the authorities concerned having failed to respond, the appeals have come to be decided and disposed by this judgment. It has to be noted that all these appeals

before being registered were preceded by an equal number of civil applications for condonation of delay which were supported by detailed affidavits of an Under Secretary of Narmada Water Resources and Water Supplies Department.

6. The only contention formally canvassed by the learned Government Pleader was that the award of additional compensation was excessive being based upon the instances of earlier sale transaction of a very small piece of land of a nearby village. In this context, it has to be noted that the pieces of lands under acquisition in the instant group of 95 cases were, in 94 cases far too smaller than the land acquired in the earlier instance. Besides that, majority of the cases involve petty amounts in respect of which the disproportionate expenses and hardship for parties on both sides is not justified.

7. In the facts and circumstances as above, the appeals are summarily dismissed with no order as to costs.

8. We painfully take note of the casual and cavalier manner in which such litigations are carried on by the State Government obviously at a huge and avoidable expense to the public exchequer; not to mention the waste of stationery, energy, resources and public time of the Court. Therefore, we part with this judgment with

anguish and the expectation of more sincere application of mind by the appellants before such appeals are preferred to pile up in the Courts.

Sd/-
(M.R.Calla, J.)

Sd/-
(D.H.Waghela, J.)
(KMG Thilake)